

January 11, 2007

To: Rep. Bob Lake, Chairman
House Tax Committee

From: Shirley J. Warehime, CPA
Montana Society of CPAs

Re: HB109—Concerning Grantor Trusts

This legislation appears to add an additional and unneeded filing requirement for taxpayers who have created what are called Grantor Trusts.

A Grantor Trust is created when an individual (the Grantor) transfers property to a Trust, but retains full control over the property.

The Grantor is not required to transfer title to the property to the Trust. In this situation, the payer continues to use the Grantor's social security number to report any payments. The Grantor reports the income on his/her individual return. Requiring the Donor to file an information return listing the Trust's income and deductions is not needed as the Department of Revenue already has the information from the payers 1099 reporting. There could also be confusion as the same income is being reported to the taxpayer by separate reports.

When the Grantor transfers title of the property to the Trust (usually to a Trust Company), a new taxpayer is created. The new taxpayer is assigned a tax identification number that will be used by payers for reporting purposes. The Donor Trust is currently required to file a fiduciary tax return to report income and deductions.